

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DONNA WOOD, et al., individually and on behalf of all others similarly situated,

Plaintiffs,

v.

MIKE BLOOMBERG 2020, INC.,

Defendant.

20 Civ. 2489 (LTS)(GWG)

NOTICE OF MOTION TO DISMISS

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law, the Declaration of Elise M. Bloom, Esq. with the exhibits annexed thereto, the Declaration of Katherine Sayers with the exhibits annexed thereto, and all of the prior pleadings and proceedings in this action, Defendant Mike Bloomberg 2020, Inc., through its undersigned counsel, will move this Court, before the Honorable Laura Taylor Swain, at the United States District Court, United States Courthouse, 500 Pearl Street, Room 17C, New York, NY 10007, on a date and time to be set by the Court, for an Order: (i) dismissing with prejudice the claims asserted in the Second Amended Class and Collective Action Complaint under the Fair Labor Standards Act of 1938, 29 U.S.C. § 201, *et seq.* (the “FLSA”), and the common law claims for fraudulent inducement and promissory estoppel (the “Common Law Claims”), pursuant to Fed. R. Civ. P. 12(b)(6); or, in the alternative (ii) striking the class allegations with respect to the Common Law Claims, pursuant to Fed. R. Civ. P. 23(d)(1)(D); and (iii) granting any other relief the Court deems appropriate.

FURTHERMORE, the undersigned certifies that Defendant has used its best efforts to resolve informally the matters raised in this motion in accordance with Rule 2.b of Judge

Swain's Individual Practices. Specifically, on April 21, 2020 Defendant sent a letter to Plaintiffs' counsel outlining the factual and legal grounds for Defendant's anticipated motion, in accordance with Judge Swain's Individual Practices. Plaintiffs' counsel responded by letter dated April 29, 2020 setting forth Plaintiffs' position, and the parties met and conferred via telephone on May 1, 2020. During the meet and confer, the parties agreed to stipulate to an amendment of the Amended Complaint pursuant to paragraph 2.b.i(2) of the Court's Individual Practices. *See* Dkt. No. 80. On May 18, 2020, Plaintiffs filed the Second Amended Complaint. *See* Dkt. No. 86.

Dated: June 17, 2020

PROSKAUER ROSE LLP

/s/ Elise M. Bloom

Elise M. Bloom
Rachel S. Philion
Pinchos N. Goldberg
Eleven Times Square
New York, New York 10036
(T) 212.969.3000
ebloom@proskauer.com
rphilion@proskauer.com
pgoldberg@proskauer.com

Mark W. Batten
One International Place
Boston, Massachusetts 02110
(T) 617.526.9850
mbatten@proskauer.com

VENABLE LLP

Nicholas M. Reiter
1270 Avenue of the Americas, 24th Floor
New York, New York 10020
(T) 212.307.5500
nmreiter@venable.com

Attorneys for Defendant
MIKE BLOOMBERG 2020, INC.